

# Notice of Allowability

Application No.

09/490,495

Examiner

James H. Zurita

Applicant(s)

BLUMENAU, TREVOR

Art Unit

3625

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Appeal Brief of 11/28/06.
2. ☒ The allowed claim(s) is/are 242-245, 247-255, 257-264, 266-275, 278-284, 286-291, 313-316 and 331-418.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### **Notice of Allowability**

Applicant's arguments contained in an Appeal Brief are persuasive and are commensurate with his disclosures and claims.

Claims 242-245, 247-255, 257-264, 266-275, 278-284, 286-291, 313-316, 331-418 are allowed.

Eight claims are independent, 242, 253, 263, 274, 287 and 313-315.

Claims 317-330 and 419-440 were withdrawn by original presentation and are herein cancelled by Examiner's amendment.

### **Examiner's Amendment**

Please cancel withdrawn claims 317-330 and 419-440.

The cancellation is necessary for allowance.

### **Examiner's reasons for Allowance**

The following are reasons for allowance of representative claim 242. The Prior art does not teach and does not reasonably suggest the following feature:

...a remote site which did not transfer the content file from the content provider to the content display site,  
[said remote site] is different from the content provider site, and  
[said remote site] is adapted to receive generated monitoring information...

The other independent features have similar limitations.

### **Discussion of Closest Prior Art**

The closest **US prior art** of record is Dedrick (US 6,108,637). However, Dedrick does not teach and reasonably suggest the combina of features, including

...a remote site which did not transfer the content file from the content provider to the content display site,  
[said remote site] is different from the content provider site, and  
[said remote site] is adapted to receive generated monitoring information...

Dedrick does not disclose embedding executable instructions in a content file.

The closest **non-US prior art** of record is previously cited Sim et al. (WO 01/11506A1, published by WIPO on 15 February 2001, from Austria. Sim does not disclose

...a remote site which did not transfer the content file from the content provider to the content display site,  
[said remote site] is different from the content provider site, and  
[said remote site] is adapted to receive generated monitoring information...

The closest **non-patent literature** is previously cited Ziegler, NetCount Seeks to Tally Users of Web Ads, Wall street Journal of 11 October 1996. However, Ziegler does not provide specific detail concerning claimed features such as

...a remote site which did not transfer the content file from the content provider to the content display site,  
[said remote site] is different from the content provider site, and  
[said remote site] is adapted to receive generated monitoring information...

### **Comments by Applicant**

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statements for Reasons for Allowance."


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**James Zurita**  
**Primary Examiner**  
**Art Unit 3625**  
28 March 2007

  
**JAMES ZURITA**  
**PRIMARY EXAMINER**